

ExHS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application :
Serial 76-342,386 filed November 27, 2001 :
by Samick Music Corporation :
for the trademark :

06-13-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

"Samick"

: OPPOSITION NO. 91,156,310

: EXPRESS MAIL NO.: EU 937887186 US
: Date: June 13, 2003

LAWRENCE MUSIC, INC.

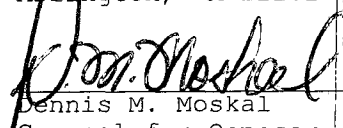
Opposer,

v.

SAMICK MUSIC CORPORATION

Applicant.

: I hereby certify that this paper
: paper or fee is being deposited
: with the United States Postal
: Service "Express Mail Post Office
: to Addressee" service under 37
: C.F.R. 1.10 on the date indicated
: above and is addressed to the
: Assistant Commissioner of
: Trademarks, 2900 Crystal Drive,
: Arlington, VA 22202-3514 by:

: 
: Dennis M. Moskal
: Counsel for Opposer

MOTION FOR SUSPENSION OF PROCEEDINGS

1. Lawrence Music, Inc., a Pennsylvania corporation having a principal place of business at 985 Castle Shannon Boulevard, Pittsburgh, PA 15234, by and through its attorneys, hereby move the Board to suspend the opposition proceeding referenced above because the subject matter of the application and the mark are at issue in the United States District Court for the Western District of Pennsylvania, Lawrence Music, Inc. v. Samick Music Corporation, Case No.: 01-1029, of which Opposer is Plaintiff and Applicant the Defendant. A true and correct copy of the pleadings is attached hereto for the Court's convenience as Exhibits A through F. See, 37 C.F.R. §2.117(a).

2. It is the usual practice of the Trademark Trial and Appeal Board to stay registration proceedings pending the outcome of court actions

between the same parties involving related issues. A. E. Staley Mfg. Co. v. Staley Milling Co., 99 USPQ 175 (Com'r); Townley Clothes, Inc. v. Goldring, Inc., 100 USPQ 57 (Com'r.); Squirrel Brand Co., v. Bernard Nut Co., Inc., 101 USPQ 340 (Com'r.); 'Developments in the Law-- Trade-Marks and Unfair Competition,' 68 Harv.L.Rev. 814, 843. In fact, an administrative proceeding may even be stayed where the civil court action had begun after the commencement of the administrative proceeding. Midland Cooperatives, Inc. v. Midland Int'l Corp., 421 F.2d 754, 164 U.S.P.Q. 579 (C.C.Pa. 1970). The Trademark Trial and Appeal Board has suspended an administrative proceeding where a civil court action was filed in federal district court two-years after the registration application was filed when a motion for summary judgment was pending in the administrative proceeding. See Nat'l Ass'n of Prof. Baseball Leagues, Inc. v. Very Minor Leagues, Inc., 223 F.3d 1143, 1146, 55 U.S.P.Q.2d 1168 (10th Cir.2000).

3. For judicial efficiency, the claims, defenses and subject matter of the opposition will be fully and fairly litigated in the United States District Court for the Western District of Pennsylvania. By way of example, but not limitation, the question of abandonment, as claimed in the Notice of Opposition will be fully litigated in the federal action.

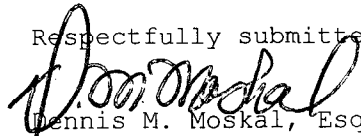
4. Not granting a stay will create added burden on the Board and the parties and significantly increase the cost of litigating the dispute.

5. A Motion to Stay was filed in conjunction with the Notice of Opposition in this proceeding, and is filed here again because receipt thereof has not been confirmed by the Assistant Commissioner.

WHEREFORE, Opposer, Lawrence Music, requests that this proceeding be stayed pending the determination in the aforesaid federal action.

June 13, 2003

Respectfully submitted,



Dennis M. Moskal, Esq.

Attorney for Applicant

Z E G A R E L L I

Technology & Entrepreneurial

Ventures Law Group, P.C.

Allegheny Building, 12th Floor

Pittsburgh, PA 15219-1616

412/765-0405

dennis.moskal@zegarelli.com

Attorney for Opposer

Lawrence Music, Inc.

TTAB

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Writer's Direct Information
412.765.0405
dennis.moskal@zegarelli.com

June 13, 2003

VIA EXPRESS MAIL

Airbill No.: EU 937887186 US

Assistant Commissioner for Trademarks
Box 5, Attn: TTAB
2900 Crystal Drive
Arlington, VA 22202-3513, USA

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U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Re: Lawrence Music v. Samick Music
Opposition No.: 91,156,310

Dear Trademark Trial and Appeal Board:

Kindly find enclosed a **Motion for Suspension of Proceedings** for filing with regard to the above-referenced opposition.

Thank you for your attention in this regard; please call me if you have any questions.

Very truly yours,

Z E G A R E L L I
Technology & Entrepreneurial
Ventures Law Group, P.C.

By: 
Dennis M. Moskal, Esq.

Enclosures

cc. Lawrence Music, Inc.
(with enclosure)